IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

**THE HON'BLE MR JUSTICE N.V. RAMANA**

**WRIT PETITION NO : 17785 OF 2006**

**DATED: 28-08-2006**

**Between:**

K.Rajeshwar Rao petitioner

And

The Regional Manager, APSRTC,
Adilabad Region,
Adilabad district and others Respondents

**THE HON'BLE SRI JUSTICE N.V.RAMANA**

**WRIT PETITION NO. 17785 OF 2006**

ORAL ORDER:

The present writ petition is filed questioning the proceedings of the first respondent dated 28.7.2004 insofar as reverting the petitioner to the post of Depot Clerk (E).

The petitioner herein was appointed as Conductor in respondent corporation in the year 1968 and subsequently promoted as Depot Clerk. The petitioner was placed under suspension vide proceedings dated 28.7.2001. A charge sheet dated 28.7.2001 was issued to the petitioner and petitioner submitted his explanation dated 22.9.2001 denying the alleged charges. Having not satisfied with the explanation offered by the petitioner, an enquiry was ordered and ultimately the disciplinary proceedings ended in removal of the petitioner vide order dated 7.10.2002. Against the said removal order, the petitioner submitted an appeal to the second respondent and the same was dismissed by order dated 5.7.2003. Then the petitioner filed a review petition to the first respondent. The first respondent on consideration of the matter, modified the punishment of removal and ordered for reinstatement into service by imposing the punishment of reversion to the post of Assistant Depot Clerk permanently vide orders dated 28.7.2004. Questioning the said order insofar as imposing the punishment of reversion, the present writ petition is filed.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation.

In the present case, the petitioner was removed from service after conducting a departmental enquiry by order dated 7.10.2002 and the punishment of removal was confirmed by Appellate Authority by order dated 5.7.2003. The first respondent/Review Authority on elaborate consideration of the matter has interfered with the punishment on the ground that the punishment of removal from service is disproportionate to the gravity of lapses, which were caused due to lack of skill and inefficiency in properly handling the job. The relevant portion reads as under;

> "In this case, the orders of removal passed by the DM:NRML is quite correct. He has observed all principles of natural justice and imposed the punishment of removal which is in order. However, I find inefficiency and lack of skill in handling the job entrusted to him, i.e., the petitioner he has failed to take initiative and consult the DC(T), for reconciliation and also feel that there is no connivance between the DC(E) and DC(T) as alleged in the charge. Since, I feel that there is no collusion between these two i.e. DC (T) and DC(E), I consider that the DC(E) might not be beneficiary in this case and the punishment of removal is disproportionate to the gravity of lapses on his part caused due to lack of skill and inefficiency for properly handling his job and hence I feel that he is not fit to hold the post of DC."

Until and unless the writ petition shows any dis-proportionality in imposing the penalty or it shocks the conscious of the Court, this Court cannot exercise its discretion or interfere with the quantum of penalty. In **Karnataka Bank Ltd. V. A.L. Mohan Rao**[2], the apex Court held that it is not for the courts to interfere in cases of gross misconduct of the nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct

proved, and that in such matters, it is for the disciplinary authority to decide what is the fit punishment.

It is not a case where the punishment of removal passed by the primary authority as confirmed by the appellate authority was set aside by the Reviewing Authority and the petitioner was exonerated from the charges alleged against him or that the enquiry was conducted in unfair manner. The Reviewing Authority on elaborate consideration of the matter, confirmed the punishment of removal from service, however taking into consideration the fact that the lapses were committed due to inefficiency in handling the post and there is no connivance or collusion between the Depot Clerk (E) and Depot Clerk (T) has modified and reduced the punishment and ordered for reinstatement into service by reducing the punishment to that of reversion to the post of Assistant Depot Clerk permanently. The order of Reviewing Authority is justified and needs no interference by this Court.

For the foregoing reasons, the petitioner has not made out any case for interference of this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

28.8.2006

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**THE HON'BLE MR JUSTICE N.V. RAMANA**

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